

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-1(b)	
Greenbaum, Rowe, Smith & Davis LLP Metro Corporate Campus One P.O. Box 5600 Woodbridge, New Jersey 07095 (732) 549-5600 David L. Bruck, Esq. dbruck@greenbaumlaw.com Attorneys for Almaden Plaza Shopping Center Inc.	
In re:	Chapter 11 Proceeding
BED BATH & BEYOND INC., et al.,	Case No.: 23-13359 (VFP)
Debtor.	(Jointly Administered)

**LIMITED OBJECTION TO NOTICE OF SUCCESSFUL BIDDER WITH RESPECT TO
THE PHASE I AUCTION OF CERTAIN DEBTORS' LEASE ASSETS**

PRELIMINARY STATEMENT

Landlord Almaden Plaza Shopping Center inc. ("Landlord") through counsel Greenbaum Rowe Smith & Davis LLP provides this limited objection to the Notice of Successful And Backup Bidder With Respect to the Phase I Auction of Certain of the Debtors' Lease Assets (the Notice) (Doc # 1114) as provided herein. Landlord is the landlord of premises located at Almaden Plaza Shopping Center, San Jose, California (the "Leased Premises"). Landlord asserts that out of an abundance of caution that the successful bid for the Lease is misstated in the Notice and states as follows:

PERTINENT FACTS AND PROCEDURAL HISTORY

1. The Landlord owns the Almaden Plaza Shopping Center San Jose, California a portion of which is leased to Buy Buy Baby ("BBB"), one of the Debtors in this Chapter 11

proceeding. The Lease is dated February 9, 2010 (the “Lease”). A copy of the Lease is attached as **Exhibit A**. The Lease is a shopping center lease. BBB has defaulted in the terms and conditions of the Lease.

2. The Debtors filed the within Chapter 11 proceeding on April 23, 2023. (the “Case”). The Case is jointly administered.

3. On April 23, 2023 the Debtors filed a motion for Entry of an Order (I)((A) Approving the Auction and Bidding Procedures, (B) Approving Stalking Horse Bidding Protections, (C) Scheduling Bid Deadlines and an Auction, (D) Approving the form and Manner of Notice Therefore, Approving the Form of APA, and (II)(A) Establishing Notice and Procedures for the Assumption and Assignment of Contracts and Leases, (B) Authorizing and Assignment of Assumed Contracts, (C) Authorizing the Sale of Assets and (D) Granting Related Relief (Document # 29) (the “Bidding Procedures Motion”).

4. On April 25, 2023, the Court entered an Order (the “Approval Order”) approving the Bidding Procedures Motion.

5. The dates scheduled for the hearings and procedures as set forth in the Approval Order have been extended from time to time as permitted in the Approval Order.

6. On June 13, 2023, the Debtors filed a Notice to Contract Parties to Potentially Assumed Contracts and Unexpired Leases (the “Cure Notice”) (Document #714) setting forth therein the Debtors’ proposed cure amounts for the potential assumption and assignment of contracts and unexpired leases.

7. At page 8 of the Cure Notice item #139 the Debtors list the Landlord Almaden Plaza Shopping Center Inc. as landlord of premises leased to BBB at the Almaden Plaza Shopping Center, San Jose, CA, and propose a cure amount of \$8,666.08.

8. Landlord filed an Objection to the Cure Notice, setting forth that the proper cure amount as of the date of filing of the Objection to the Cure Notice was \$49,362.87 See **Exhibit B**. To this date the debtors have not responded to the Objection to the Cure Notice.

9. On June 12, 2023 Landlord through counsel submitted by email a bid for a Lease Termination Agreement to Mike Matlat, Senior Managing Director at A&G Real Estate Partners. See **Exhibit C**. The email specifically states that it is for \$200,000 “less the outstanding prepetition rent and charges of \$49,362.87 as set forth in the filed proof of claim and rent and charges for the months of May and June 2023 (being estimated)”. In response Mike Matlat responded as set forth in his email of June 12, 2023 attached as **Exhibit D** in which he acknowledged the bid..

BASIS FOR OBJECTION

10. On June 27, 2023, the Debtors filed the Notice (Doc# 1114) in which it identified the Landlord as the successful bidder for the Lease for a Successful Bid of \$200,000. See No. 6, Store # 3034. The successful bid as identified makes no mention of the cure costs and is thus misleading and incorrect.

11. Attached as **Exhibit E** is a compilation of the current amounts necessary to cure the defaults and compensate the Landlord for the pecuniary loss to the Landlord caused by the defaults in the Lease. The amount necessary to compensate the Landlord is including unpaid rent, unpaid additional rent inclusive of the tenant’s required payment of its share of real estate taxes, operating expenses and attorneys’ fees incurred as a result of tenant’s default. The Lease

specifically provides for the payment of attorney's fees incurred in connection with BBB's defaults. See Section 46 of the Lease. These amounts should be deducted from the \$200,000 bid.

12. Landlord reserves the right to supplement and amend as necessary this objection to reflect additional amounts which may become due prior to the date of proposed Assignment or Lease Termination and to address such issues as may arise.

RELIEF REQUESTED

The Landlord is prepared to move forward with its bid for the Lease or the assignment/termination of the Lease provided that the amount of the successful bid is accurately stated as the sum of \$200,000 less the allowed cure costs through the date of Assignment of the Lease to the Landlord or the execution of a Lease Termination Agreement between the debtor and the Landlord.

Respectfully submitted,

GREENBAUM, ROWE, SMITH & DAVIS LLP
Attorneys for Almaden Plaza Shopping Center Inc.

Dated: July 7, 2023

/s/ David L. Bruck
David L. Bruck